

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

December 3, 1997

UNITED STATES OF AMERICA)	
Complainant,)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 97A00158
)	
DESIGN CRAFT DOOR, INC.)	
Respondent.)	

ORDER TO SHOW CAUSE WHY DEFAULT JUDGMENT SHOULD NOT ISSUE

This action arises under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a (INA or the Act). The United States Department of Justice, Immigration and Naturalization Service (INS) is the complainant and Design Craft Door, Inc. is the respondent.

On September 8, 1997, complainant filed a complaint in five counts with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging 1) that the respondent had failed to prepare and/or present Employment Eligibility Verification Forms (Form I-9) for two named individuals hired after November 6, 1986; 2) that the respondent had failed to ensure that two named individuals hired after November 6, 1986 properly completed Section 1 of the Form I-9; 3) that the respondent had failed to ensure that four additional named individuals hired after November 6, 1986 properly completed Section 1 of the Form I-9; 4) that it had failed to properly complete Section 2 of the Form I-9 for one individual hired after November 6, 1986; and 5) that it had failed to properly complete Section 2 of the Form I-9 for one additional individual hired after November 6, 1986. Each of these alleged acts constitutes a separate violation of the Act. Civil money penalties in the total amount of \$3, 050.00 are sought by complainant.

The complaint, along with a notice of hearing was mailed to David E. Nelson, President, Design Craft Doors, Inc. who had requested a hearing on behalf of respondent on February 23, 1996. That notice directed that an answer was to be filed within thirty (30) days, that failure to answer could lead to default, and that proceedings would be governed by Department of Justice regulations.¹ The return receipt indicates that service was complete on September 15, 1997. Respondent has not filed an answer to the complaint to date.

On November 24, 1997, complainant filed a Motion for Default Judgment on the grounds

¹ Rules of Practice and Procedure for Administrative Hearings, 28 C.F.R. Pt. 68 (1996).

that respondent had failed to answer the complaint within the time provided.² OCAHO rules provide that the failure of a respondent to file a timely answer shall be deemed to constitute a waiver of his/her right to appear and contest the allegations of the complaint. The Administrative Law Judge may thereafter enter judgment by default. 28 C.F.R. § 68.9(b). Respondent is hereby notified that, absent a showing of good cause for failure to answer, judgment shall be issued in favor of INS.

Respondent is hereby ordered to show cause within 15 days why complainant's Motion for Default Judgment should not be granted, or in the alternative, show good cause for its prior failure to answer, and to file an answer which comports with 28 C.F.R. § 68.9. Any comments respondent wishes to make on the issue of civil penalty shall also be submitted in writing within 15 days.

SO ORDERED.

Dated and entered this 3rd day of December, 1997.

Ellen K. Thomas
Administrative Law Judge

² Section 68.9(a) provides that the respondent shall have thirty days after service of a complaint to file an answer. Section 68.8(c)(2) provides that when service is had by mail, five days shall be added to the prescribed period.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December, 1997, I have served copies of the foregoing Order to Show Cause Why Default Judgment Should Not Issue on the following persons at the addresses indicated.

Dea Carpenter, Esq.
Associate General Counsel
Immigration and Naturalization Service
425 "I" Street, N.W., Room 6100
Washington, D.C. 20536-9999

Thomas L. Day, Esq.
Immigration and Naturalization Service
P.O. Box 3361
Portland, OR 97206

David E. Nelson, President
Design Craft Door, Inc.
7813 SE Luther Road
Portland, OR 97206

Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 2519
Falls Church, VA 22041

Cynthia A. Castañeda
Legal Technician to
Ellen K. Thomas
Administrative Law Judge
5107 Leesburg Pike, Suite 1905
Falls Church, VA 22041
(703) 305-1742